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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twelfth session

SUMMARY RECORD OF THE 24th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 16 May 1995, at 3 p.m.

Chairperson: Mr. ALSTON

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GE.95-16585 (E)

The meeting was called to order at 3.15 p.m.

ORGANIZATION OF WORK (agenda item 4) (continued)

1. The CHAIRPERSON said that he had drafted a number of recommendations on various topics, which he would submit to the Committee at a later stage. One concerned the proposed seminar to be held in conjunction with the World Bank which the Committee had long mooted and which the Economic and Social Council had recommended three years running. It had not yet materialized because it was being blocked by the secretariat of the Centre for Human Rights. He wished to place on record that he detected a consistent pattern of neglect in the Centre's attitude to economic, social and cultural rights, which was further evidenced by the fact that no action had been taken on appointing the research staff member that the Committee had requested, although the post had been advertised a year earlier. The Committee should draft a strong set of conclusions on that issue.

2. Several matters of interest to the Committee had arisen out of the World Summit for Social Development held in Copenhagen earlier in the year. First, he believed that the Committee had had an impact, through its strong statement issued in December 1994, on the fact that economic, social and cultural rights had been mentioned. Secondly, as the Committee had been urging since 1988, the importance of States adopting the benchmark approach was emphasized: that was, States could determine the standards they themselves could expect to achieve and then inform the Committee, so that some domestic and international accountability existed. Thirdly, he noted that the Summit had recommended the formulation or strengthening by 1996 of comprehensive cross-sectoral strategies for implementing the Summit outcome and national strategies for social development, linked with the definition of time-bound goals and targets for reducing overall poverty and eradicating extreme poverty, as well as expanding employment and reducing unemployment. Another point of interest was that the primary international responsibility for achieving such ends was attributed to the United Nations General Assembly and then to the Economic and Social Council, in which context the role of the Commission on Social Development was acknowledged. That body had been singularly ineffective, but it had seized on the Summit reference to try to gain a new lease of life. The Council was due to debate the matter in July. The Summit outcome had also emphasized the important role of the Committee on Economic, Social and Cultural Rights in monitoring those aspects of the Declaration and Programme of Action that related to compliance by States parties to the Covenant. That reference was to be welcomed up to a point, but regrettably it was not specific, nor did it mention the relationship between the Committee and other bodies. It was the ideal time for the Committee to seize the initiative. Following discussions with the members he would like to draft a recommendation setting out the Committee's view of its role and the importance it attached to the benchmark approach.

3. Another matter to be decided was that of the Committee's participation in the forthcoming World Conference on Women, to be held in Beijing. It was essential that the Conference should recognize the importance of economic, social and cultural rights; there was a widespread tendency to assume that if women achieved their social and political rights, their enjoyment of economic, social and cultural rights would automatically follow. That was not the case.

Many, if not all, United Nations treaty bodies would be represented by their Chairperson or Rapporteur. However, he would be unable to attend himself.

4. He therefore wished to suggest that Mrs. Bonoan-Dandan, who had acted as the Committee's coordinator, should represent the Committee and that, if the Secretary-General authorized the sending of two representatives, she should be accompanied by Mrs. Jimenez Butragueño, who had done so much work in the field of women's issues.

5. It was so decided.

6. Mrs. JIMENEZ BUTRAGUEÑO said that she would be happy to accompany Mrs. Bonoan-Dandan and, if only one representative was sent, she would gladly support the proposal that Mrs. Bonoan-Dandan should represent the Committee.

7. Mr. TEXIER noted that in the absence of the Chairperson it had been decided that a letter reflecting the Committee's position on housing should be sent to the Preparatory Committee for the United Nations Conference on Human Settlements (Habitat-II) in time for its next meeting.

8. The CHAIRPERSON considered that the Committee should start work on a statement regarding the right to adequate housing. It could not tolerate the fact that such a right should be under threat.

9. He suggested that Mr. Texier should be requested to write a draft statement on the matter.

10. It was so decided.

Draft general comment on the economic, social and cultural rights of older persons (E/C.12/1994/WP.16/Rev.1)

Paragraph 3

11. Mrs. JIMENEZ BUTRAGUEÑO submitted a revised text, prepared in consultation with several other members of the Committee, of paragraph 3 of the draft general comment.

12. The CHAIRPERSON suggested that, as the revised text was lengthy, discussion on it should be deferred until the original Spanish text and a translation had been circulated.

13. It was so decided.

Paragraph 19

14. Paragraph 19 was approved.

Paragraph 20

15. Paragraph 20 was approved.

Paragraph 21

16. Mr. TEXIER raised a substantive objection to paragraph 21. It was unclear whether "older persons" referred to those below or above retirement age. He had assumed that it referred to retired people, but the text seemed to imply that those below retirement age were being referred to. If so, they could not be termed "older" persons.

17. Mrs. JIMENEZ BUTRAGUEÑO said that it was a general reference to age as a factor of unemployment. She pointed out that people aged 45-50 might have difficulty obtaining work. The phrase could, however, be amended to read "people approaching retirement" or deleted altogether.

18. The CHAIRPERSON said that although age discrimination might have an impact on people in their fifties, "older persons" should, as implied in paragraph 6, refer only to those over 60.

19. Mr. TEXIER considered that the phrase should be avoided altogether: it did not seem appropriate for those aged 45-55. He suggested a form of words such as "States parties should therefore adopt appropriate policies avoiding widespread discrimination based on age".

20. Mr. WIMER ZAMBRANO considered that paragraph 21 should be deleted altogether. It showed muddled thinking. Age discrimination could affect those as young as 35, but there was no point in referring to any group other than the over-60s.

21. Mr. GRISSA pointed out that the same ambiguity applied to paragraphs 23-28. Older workers were the issue, not old people as such.

22. The CHAIRPERSON said that paragraph 21 could not simply be deleted: to exclude a reference to the right of older people to work would imply that they had no such right. He conceded that the trend was to employ ever younger workers, but that should not prevent the Committee from encouraging States to employ older workers and not to exclude them from the workforce arbitrarily. Perhaps the phrase should be amended to "persons over the age of 61".

23. Mr. GRISSA asked what line should be taken in respect of States which set the retirement age at 60. He pointed out that it might be a deliberate policy intended to help the young, whose unemployment rate was sometimes higher, as in France, and who might have more obligations.

24. The CHAIRPERSON said that to adopt that approach would mean the end of economic, social and cultural rights; the same argument could be applied to health care, for example. The issue involved was the right not to be written off and not to have to give way to the young.

25. Mr. SIMMA said that Mr. Grissa had made a valid point which did not necessarily mean the wholesale jettisoning of economic, social and cultural rights. When the Committee had adopted General comment No. 5 (1994) on the rights of persons with disabilities it had not, by contrast with the draft general comment on older persons, advocated extending the rights of one group of workers to the detriment of another. It had at least to consider other

groups in society which might be placed at a disadvantage. It could indeed be argued, that if 80 per cent of health care was given during the last six months of a patient's life, 50 per cent of health care could be deemed unnecessary. The Committee should be careful not to make recommendations that, while prolonging the working life of older people, negatively affected the rights of the young to work.

26. Mr. AHMED suggested a compromise draft text incorporating elements of paragraphs 20 and 21.

27. The CHAIRPERSON considered that it would be a structural mistake to combine the two paragraphs, but he welcomed the general drift of Mr. Ahmed's proposed text. As for Mr. Simma's point, the relevant statistics were that 60 per cent of Medicare treatment went to those in the last six months of life, but Medicare by definition was for those over 65. He accepted, however, that there should be a more nuanced interpretation; the Committee should restructure the paragraph, making clear its objection to discrimination on the grounds of age, but equally insisting that the rights of other groups should not be adversely affected.

28. Mr. GRISSA said that in making a general statement, the Committee should ensure that it did not discriminate against people in countries which had a lower retirement age based on a lower life expectancy. There should be no discrimination against people who might be described as "older workers".

29. The CHAIRPERSON suggested, as a compromise, that paragraph 21 should be reworded to read:

> "Article 6 (1) of the Covenant requires States parties to take appropriate measures to safeguard the right of everyone to the opportunity to gain a living by work which is freely chosen or accepted. States parties should adopt and encourage appropriate policies which do not involve arbitrary discrimination against the employment of older persons."

30. The emphasis on "arbitrary" would eliminate forms of arbitrary discrimination by leaving it open to countries to decide whether a certain practice was a long-standing systematic policy or otherwise.

31. Mr. CEAUSU suggested that the phrase "unjustified limitations to the right to employment" should replace "arbitrary discrimination".

32. After a discussion in which Mr. SIMMA and Mr. GRISSA took part, the CHAIRPERSON suggested that the last sentence of paragraph 21 should read: "States parties should adopt and encourage appropriate policies which do not involve the imposition of unjustifiable limitations upon the employment of older persons".

33. It was so decided.

34. Paragraph 21, as amended, was approved.

Paragraphs 22-27

35. Mr. SIMMA said that now that the ambit of paragraph 21 had been substantially restricted, the Committee needed to be sure that the use of the expression "older workers", which had been defined in paragraph 8 and was presumably valid for the rest of the comment, was consistent with the International Labour Organization (ILO) instruments referred to in paragraphs 22 and subsequently. The scope of the ILO rules might be much broader than what the Committee had in mind in the new expression "unjustifiable limitations".

36. The CHAIRPERSON said that the wording just approved was general and did not commit the Committee to a weak or strong position. Paragraph 22 then followed with another relatively neutral statement referring to ILO recommendations and conventions which were not binding on States which had not ratified them. If the Committee was concerned, however, it could use even weaker language in paragraph 22 and eliminate the references altogether.

37. Mr. GRISSA asked whether the Committee was establishing an age limit in paragraph 22.

38. The CHAIRPERSON replied that "older persons" were already defined in paragraph 8 as all persons aged 60 and above. As the ILO age was also 60, there was consistency in the text.

39. Mr. GRISSA, noting that the conventions and recommendations referred to dated back to 1958 and 1980, wondered whether any had been revised or updated to take into account the changes in life expectancy and economic conditions of more recent years.

40. The CHAIRPERSON replied that ILO Convention No. 111 concerning Discrimination (Employment and Occupation) Convention, 1958 had been referred to because it was one of the classic ILO Conventions. It had been updated by Recommendation No. 162 concerning Older Workers, 1980, which was referred to in paragraph 23 and by Convention No. 168 concerning Employment Promotion and Protection against Unemployment Convention, 1988, which were referred to in paragraph 24.

41. Mrs. JIMENEZ BUTRAGUEÑO said that she was concerned that paragraph 8 might be too restrictive. Although the age of 60 appeared in the ILO Conventions, it might not be appropriate to include an age at all in the comment, in view of the tendency to raise the retirement age in some countries and in the Council of Europe, OECD and elsewhere.

42. The CHAIRPERSON pointed out that if a minimum age of 60 was not included in paragraph 8, many members of the Committee would be unable to agree with the draft as a whole because the expression "older persons" could then be interpreted as being as low as 40 or 45.

43. Mr. WIMER ZAMBRANO said that when the Committee had earlier discussed the expression "older workers", it had been decided that the expression

de edad avanzada was an acceptable Spanish equivalent. The expression which now appeared in the Spanish text, da más edad was incorrect and meaningless linguistically.

44. The CHAIRPERSON replied that the Committee could not reverse the decision by the international community to use the expression "older persons" to refer to persons over the age of 60. It had been used in ILO Conventions, in various United Nations instruments, by the General Assembly in declaring 1999 as the "International Year of Older Persons" and elsewhere.

45. Mr. WIMER ZAMBRANO said that the Committee ought to be able to agree on an expression for its own purposes and not have to adhere to United Nations terminology in every case.

46. Mrs. JIMENEZ BUTRAGUEÑO observed that the Committee would in any event need to use ILO terminology when referring to ILO texts and those of other bodies. The expression "mature workers" had been used in her country and it might be useful to examine other texts to see whether any other expressions or categories had been used.

47. Mr. SIMMA expressed concern that the ILO instruments appeared to have greater prominence than the articles of the Covenant, and that the reader might thereby be confused. It might be more appropriate to refer only to the essence of the ILO Conventions in a few sentences, with the Conventions referred to in brackets, and to place greater emphasis on the effect of the Covenant.

48. The CHAIRPERSON said that, from a practical point of view, the comment would now be difficult to change unless the Committee gave specific guidance and asked another of its members to work with Mrs. Jimenez Butragueño in amending the text.

49. Mrs. JIMENEZ BUTRAGUEÑO pointed out that the first part of the comment, up to paragraph 27, had already been revised by the Chairperson. However, she would be prepared to redraft the text overnight, perhaps with Mr. Simma's help.

50. Mr. SIMMA pointed out that Mrs. Vysokajova, as a labour lawyer, was better qualified to work on the text. He did not wish to press the matter of restructuring but had merely wished to draw attention to a certain weakness in the text.

51. Mr. GRISSA suggested that paragraphs 22-27 should be deleted as they were repetitive and weakened the substance of the text.

52. The CHAIRPERSON agreed that Mr. Simma's criticism was perhaps justified: paragraphs 22 onwards placed very heavy reliance on instruments adopted by the ILO and General Assembly. The value of the draft as it stood was in drawing the attention of a Government or other party which was not familiar with the other instruments to the relationship between the Covenant and the various other analyses which had been undertaken. Ideally, the Committee should be more effective and seek to distil certain principles so as not to rely so heavily on other instruments. The work would be demanding and could not be

done overnight or even within a matter of weeks, and the Committee would therefore have to decide whether it wished to defer consideration of the draft to enable further work to be done on it or whether, for pragmatic reasons, it wished to continue working on the draft, as it stood, in which case Mr. Grissa's proposal might be appropriate.

53. Mr. MARCHAN ROMERO said that he thought the Committee should give Mrs. Jimenez Butragueño time until the next session to rework the paragraphs in question and to produce a text that all members could endorse in every detail.

54. The CHAIRPERSON suggested that the Committee might adopt the draft as far as paragraph 18, which more or less covered the main issues, with the option of adding more later if that was not sufficient.

55. Mr. SIMMA, noting that a general comment must refer to the Covenant and its relevant individual articles, said he thought the best course would be either the one proposed by Mr. Marchan Romero, or simply to delete now what was redundant in paragraphs 21-27.

56. The CHAIRPERSON pointed out that the same criticism about the derivative nature of the formulation applied to the subsequent paragraphs on articles 9 and following.

57. Mr. SIMMA, reviewing the text, said that that was certainly true of the section on article 9; the paragraphs on articles 10 and 12 were satisfactory, but the reference to soft-law instruments could be cut down in those on article 11; the section on articles 13-15 was not replete with references to other United Nations documents to the same extent.

58. Mr. WIMER ZAMBRANO, agreeing that Mr. Simma's general criticism was well taken, said that it was the Committee's fault if the draft lacked a solid theoretical grounding, and felt it could not be redrafted overnight. If Mrs. Jimenez Butragueño were given more time, the text would be much enriched.

59. Mrs. JIMENEZ BUTRAGUEÑO observing that it was the fourth time the draft had come back to her, each time with new thoughts from members, said she was perfectly willing to reword it but would appreciate having each member's ideas in writing beforehand, especially with regard to articles of the Covenant that touched on their fields. She was puzzled, however, by the fact that other general comments adopted by the Committee had also referred copiously to other instruments.

60. Mr. SIMMA said that it might simply be a matter of rephrasing some of the paragraphs so that they did not simply quote ILO instruments but put forward the concept in question as the Committee's own, with a further indication that it was in accordance with the ILO provisions.

61. He thought it would be best to defer final consideration until the thirteenth session: the end result would be the same, because the general comment would be published in the same annual report.

62. The CHAIRPERSON suggested that as there seemed to be a consensus, it was preferable to defer consideration of the draft general comment until the thirteenth session, so that Mrs. Jiménez Butragueño could put more of the text relating to articles 6 to 15 of the Covenant in the Committee's own words in a more synthetic and normative manner; with a view to adopting the general comment at that session.

63. It was so decided.

64. Mr. SIMMA urged members to give Mrs. Jiménez Butragueño the benefit of their specific expertise. He himself was strong on article 11, for instance, but knew little of the domestic labour law or ILO safety regulations relative to articles 6 to 8. Those on the Committee who knew infinitely more in other areas should work with her on those.

65. The CHAIRPERSON suggested, accordingly, that Mrs. Vysokajova and Mr. Alvarez Vita should give advice on articles 6 to 9, Mr. Texier on article 10, and Mr. Wimer Zambrano on articles 13 to 15.

66. Mrs. JIMENEZ BUTRAGUEÑO suggested that she might have the Chairperson's own general input and that of Ms. Taya, as well as Mr. Alvárez Vita's on article 10 with respect specifically to the right to health.

67. It was so decided.

68. Mr. SIMMA, reverting to the issue of the right to work of the elderly as opposed to that of the young, said that the proposed redrafting of paragraph 21 in the light of paragraph 8 had met his concerns; but that the same problem arose in paragraph 24 in relation to unemployment. He asked Mr. Grissa if it was indeed true that when the elderly stayed on in their posts it had a negative impact on the ability of younger people to find gainful employment. If that was the case, he would have a problem supporting the right of the elderly to work indefinitely.

69. Mr. GRISSA said that certainly the longer people stayed in their jobs, the more difficult they made it for others to enter the workforce. There were only so many slots. Each generation had to leave place for the next. The rights of some were the obligations of others. In the real world there was always competition.

70. Mr. ADEKUOYE observed that if an economy was booming and short of labour, then there was room for the elderly. But in a long-term recession with high unemployment, and consequently more restricted prospects for young people, the continued employment of the elderly would be a problem. It was a hard philosophical question as to whose rights the Committee was protecting - those of older persons with a possible pension or those of young people who were unemployed.

71. The CHAIRPERSON said that he wished to register his own strong dissent from what seemed to be a majority view. The Committee was dealing not with social benefits to be granted at the whim of States, but of attributes that

flowed from human dignity. One did not have to refer to Karl Marx to recognize the central link between dignity and work. That did not mean, of course, that work should be interpreted exclusively as part of the formal economy governed by the full panoply of labour laws and regulations; some concessions in terms of entitlements could be made at some point. He failed to see, however, how one could cut off the right to work at a certain age if it was truly a human right. Many of the arguments just advanced revived the old debate, applied especially to the developing countries, about having to make a triage and devoting all resources exclusively to the able-bodied and healthy.

72. There was always an economic limitation on any of the economic, social and cultural rights. The challenge was to formulate, in a nuanced and careful way, the implications of those economic limitations, not to adopt a simplistic, across-the-board position that at a certain point a human right was forfeited in the interests of others.

73. He also questioned the underlying assumption that if people were allowed to work beyond 60 the labour market was automatically diminished for those under 60. Actually, in the developed countries, and certainly in Canada and Australia, the removal of the compulsory retirement age had not been shown to result in a radical increase in the number of people wanting to remain in the workforce. The great majority had still wanted to retire at 60. The discussion was illusory, at any rate, in terms of the developing countries, where people did not even have the option of retiring since they were living on the margins and had to keep on. If one read the latest literature on work in the developed societies - he was thinking particularly of Jeremy Rifkin's controversial book published earlier that year - work as it was known in the West would come to an end: rapidly-changing technology would eliminate anyone over 35 and do away with the importance of the labour market. The conclusion to be drawn from that sort of analysis was that society as a whole needed to be restructured; not that a simplistic age-limit had to be established.

74. As defender of economic, social and cultural rights for persons of all ages and all situations, the Committee must emphasize such restructuring and the obligation of Governments to be more creative in devising ways by which people of all ages could continue to work, while permitting certain nuanced, economically-dictated limitations.

75. Mrs. JIMENEZ BUTRAGUEÑO said that she agreed wholeheartedly with the Chairperson's excellent analysis. It was incorrect to make a sweeping statement that the elderly necessarily took jobs away from the young. The situation was a complicated one in which that sometimes was the case - as when retirees returned to the workforce in beginning-level jobs that would be best left for young people just entering the labour market. In other instances, their long years of experience did not allow them to be replaced by young people. The freedom to choose to continue to work was the important thing, and in that respect the elderly were a vulnerable group requiring protection. All policies to extend retirement, however, had to be part of an overall labour policy, as the ILO itself had urged.

76. Mr. TEXIER said that since the Committee had decided to postpone the adoption of the draft general comment it would do well to consider how best to tackle the issue of the elderly. He believed that it should be dealt with from a human rights point of view rather than that taken by Mr. Simma, i.e. focusing on making a choice between the elderly and the less elderly which he found an extremely dangerous approach for a human rights body.

77. The Committee's concern was to ensure that there was no discrimination based on age. The Committee should concentrate on the implementation of the Covenant to ensure that Governments endeavoured to avoid discrimination and to guarantee access to a minimum level of income, training and employment.

78. The question as to whether the employment of the elderly affected the labour market share available to the young, and the cost of social security relating to the continued employment of the elderly were strictly economic issues. Governments implemented the labour policies they deemed fit to provide solutions to the problem of unemployment. He found Mr. Simma's argument about the cost of social security very dangerous and he urged the Committee, as a monitoring body, not to become mesmerized by economic issues such as the cost of social security and to focus instead on non-discrimination.

79. Mr. GRISSA stressed that the Committee had to discuss economic issues because it was addressing economic and social rights. If that fact was ignored, the Committee would ignore all rights, because rights had an economic base. The Covenant dealt with the right to work, and in studying the issue, as usual the Committee was not able to see the wood for the trees. All persons had the right to work. The Committee should not ignore the rights of all other groups because it was discussing one particular group. In life, there was a conflict of interest between the rights of the elderly and those of the young.

80. Mr. SIMMA said that he found himself in agreement with Mr. Grissa but not with Mr. Texier because he could not agree with Mr. Texier's view that the Committee could deal with economic rights without considering economic arguments. If the Committee dealt with economic and social rights, it had to consider economics, social sciences and a number of other sciences. If it wished to avoid sensitive questions, it would find it impossible to adopt a general comment on the rights of the elderly. Questions of distribution were inevitably involved and, because of the lack of movement in the work hierarchy, questions of dignity were also involved for young people. He did not see how the dignity of an older person was threatened if he was asked to retire with adequate provisions for pension, health care and other amenities. He did not think that dignity required that a professor, judge or senior civil servant should remain in his post until he died, to the detriment of a younger person.

81. Mr. ALVAREZ VITA said the debate had been enriching and he agreed that it would be absurd for the Committee to ignore the economic forces present in the contemporary world. He could not, however, accept the idea that the young had

the right to take jobs away from the elderly. He therefore did not want his silence to be interpreted as an endorsement of what he considered to be morally and legally contrary to the essence of human rights doctrine.

82. He did not know how that debate, which he found entirely regrettable, had begun. He wished to congratulate Mrs. Jiménez Butragueño who, in her first statement, had given such a clear and meticulous presentation. He also endorsed Mr. Texier's view that the debate was extremely dangerous and had listened with equanimity to Mr. Grissa's comment that the Committee could not ignore economic considerations. Nevertheless, he felt strongly that those statements should not have been be made in the Committee.

83. Mr. SIMMA, speaking on a point of order, said that his own freedom of expression had come close to being curtailed when Mr. Alvarez Vita had stated that his argumentation was entirely unacceptable.

84. Mr. ALVAREZ VITA said he continued to defend human rights, including the freedom of expression.

85. Mr. CEAUSU said mandatory retirement did not necessarily entail the denial or the violation of a person's right to work. The Committee should not forget that, from the beginning, trade unions had fought for the right to an old-age pension. It therefore meant that an employee could ask his employer for retirement, and was entitled to receive a pension, and, conversely, an employer could ask an employee to retire and the employee would have to accept retirement. Retirement did not exclude the possibility of work because a person could become involved in intellectual pursuits, self-employment or other activities. Mandatory retirement should also be considered as a form of social protection which ensured that individuals could not be forced to exert a physical or intellectual effort that was beyond their capabilities. Retirement was normal and should not be conceived of as a disaster.

86. Mr. ADEKUOYE said he agreed entirely with Mr. Ceausu. One aspect of the right to work that should be considered was that when the productivity of a person was declining because of age, the employer had the right to employ someone younger. What was required was a system in which a person could retire in dignity with assured social security benefits. This did not mean that an older person who had approached the age of retirement should have the right to vocational training or other benefits which would be more appropriately granted to a younger person in need of training or retraining. Such an approach would be a backward step because it would amount to saying that a person had a right to work irrespective of their productivity and the economic trends.

87. Mrs. JIMENEZ BUTRAGUEÑO said that after listening to the various comments, she was quite puzzled as to whether she should be writing on the right to work. She did not accept the idea that persons should be forced to retire if they wished to continue working. The Committee should respect the rights of such persons. Examples had been given of the situation in various countries, for example, in relation to the collection of pension. Yet the ILO did not address the question of pension, rather, it sought increased

flexibility in the age of retirement, taking into account prevailing demographic and cultural factors. There was also a trend towards an extended age of mandatory retirement and some countries had adopted measures to that effect. She did not know how to express the general wishes of the Committee in the draft but said she believed that the Committee should examine the economic and social rights of the elderly and not delve too deeply into the economic implications because the Committee was not one of the financial institutions. She agreed with the comment that the Committee should not confuse resources with political will. Governments dealt with questions of labour and unemployment in different ways. She therefore asked for guidance on what focus her text should take.

88. The CHAIRPERSON said he had no easy guidance to offer. The debate had been vigorous and very useful. The challenge facing Mrs. Jiménez Butragueño was to look at the summary records to identify a middle course, acknowledging the economic factors, but not conceding that they were the sole determinants, and bearing in mind the concerns expressed on either side. He said the Committee awaited, with great interest, her draft formulation which he was sure would give rise to further debate within the Committee.

89. Mr. WIMER ZAMBRANO said he wished to stress that the Committee's objective was to ask States not to discriminate against the elderly but to give them the same opportunities as others. However, he believed it would be an error to try to dictate how States should manage their policies on employment. The document would be effective enough if it restricted itself to the defence of the rights of the elderly with respect to employment.

SUBMISSION OF REPORTS BY STATES PARTIES IN ACCORDANCE WITH ARTICLE 16 OF THE COVENANT (agenda item 5)

90. The CHAIRPERSON said that reports from 12 countries were awaiting consideration by the Committee at its thirteenth session. The main question was whether the Committee should select four or five reports for consideration. He assumed that it would deal with five reports; if so, that would leave no time for further discussion on the topic of the draft general comment or on that of the draft optional protocol. One possibility would be to discuss those topics on the day normally assigned for the general discussion. He was not sure how long the two topics would require and whether there would be enough time to complete discussion of either, let alone both. The choice before the Committee therefore was either to allow time for the discussion and limit its consideration to four reports or to try to cover five reports and take the chance that there might not be enough time for other topics. The four reports, in chronological order, were those of Colombia, Norway, Mauritius and Ukraine. The fifth report would be that of Algeria. The other reports pending were those of Paraguay, Spain, the Dominican Republic, El Salvador, Guatemala, Portugal (Macao) and Belarus.

91. Mr. SIMMA said he preferred the alternative in which the Committee would reserve sufficient time for discussion of the draft optional protocol and the adoption of the draft general comment. He believed the Commission on Human Rights expected the Committee to finalize the optional protocol in time for its 1996 session. He was in favour of devoting the day of general discussion to the draft optional protocol.

92. Mr. GRISSA said that there was already a backlog of reports and that, by November, there would be further reports waiting to be considered. He suggested that the Committee should deal with five reports and reserve the day of general discussion for the draft optional protocol and the draft general comment. He said, given the extensive debate that had already taken place, there would be no need to repeat it in November. If members came to the session better prepared, and the time allowed to each speaker was limited, the Committee could advance more rapidly.

93. The CHAIRPERSON said that however disciplined and well prepared its members might be, the Committee would not be able to adopt a report on the draft optional protocol and to finalize the draft general comment in the space of a day and a half.

The meeting rose at 6.05 p.m.